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10/15/2009

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EXAMINER

HOOK, JAMES F

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## **DETAILED ACTION**

### ***Election/Restrictions***

Newly submitted claims 40-52 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 40-43 deal with the embodiment of forming the spiral as a crack which is not disclosed as being part of elected figure 2 which was previously elected in the response of June 12, 2008, and the remaining claims are directed to the same subject matter which was originally withdrawn as non elected inventions also elected in the paper of June 12, 2008.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40-52 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Specification***

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

It appears that the specification was a literal translation and may include terms which are not what applicant intended. The specification should be checked to insure that the language is clear and pertains to what applicant intended.

Specifically, the specification at least does not have the proper headings provided as are required, however, as set forth above applicant is requested to check the entire specification to insure it describes applicants invention in a clear manner when it appears the specification was a literal translation. This specific request does not require specifics of what may be wrong in the translation, however, as set forth at least the specification should be amended to include the proper headings. Below is a listing of such headings which are to be used.

#### **Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

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- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR

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1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 37-39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Loncaric. The reference to Loncaric discloses the recited pipe comprising a spiral 44 for checking and/or repair of a wall 10 of a pipe, the spiral has inherently a helical lead, where such is selected so that it

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provides protection against cracks and limits their length which is considered a critical length in that the spiral is there to prevent cracks from growing too large, where the pipe can have welds. The fiber wrap would inherently form grooves and resin would fill such grooves and therefore be a filling material, where the crack is stated as stopping before the arrestor and since such is wound helically it is inherent that the pitch would be such that the crack would stop before getting to the next wind of the arrestor thereby meeting the claim language. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values.

Claims 37-39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fawley. The reference to Fawley discloses the recited pipe comprising a spiral 36 for checking and/or repair of a wall 12 of a pipe, the spiral has inherently a helical lead, where such is selected so that it provides protection against cracks and limits their length which is considered a critical length in that the spiral is there to prevent cracks from growing too large and prevents such from going past the wind of the arrestor thereby inherently being of a pitch to not exceed the critical length of a crack, where the pipe can have welds, and where the fibers form grooves which are filled by the plastic material. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would

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be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values.

Claims 37 and 38 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Smith. The reference to Smith discloses the recited pipe comprising a spiral "k" for checking and/or repair of a wall "A" of a pipe, the spiral has inherently a helical lead, where such is selected so that it provides protection against cracks and limits their length which is considered a critical length in that the spiral is there to prevent cracks from growing too large, where the pipe can have joints. It is considered that joints of metal pipes such as set forth in Smith would inherently be welds, however, if such is not considered the case it is considered old and well known in the art to form joints in pipe sections with welds, where such is an obvious choice of mechanical expedients requiring only routine skill in the art to select a known method of joining pipe sections together. Smith also discloses small cracks and since the helical wind is seen to be spaced then inherently the crack length can be considered to fall within the pitch of the winds, however, if such is not considered the case such also would be merely a choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values and further prevent damage to the pipe thereby saving money. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values.



Claims 37-39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Gross. The reference to Gross discloses the recited pipe comprising a spiral weld for checking and/or repair of a wall of a pipe, the spiral has inherently a helical lead, where such is selected so that it provides protection against cracks and limits their length which is considered a critical length to within a spiral in that the spiral is there to prevent cracks from growing too large and prevents such from going past the spiral of the arrestor thereby inherently being of a pitch to not exceed the critical length of a crack, where the pipe can have welds, and where the weld is inherently formed of grooves which are filled by the welding material. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values and if it is not considered inherent that welds have grooves provided with welding material, then it would have been obvious to one skilled in the art that it is old and well known that welded seams can be formed from grooves provided with weld material.

Claims 37-39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Evgenievich. The reference to Evgenievich discloses the recited pipe comprising a spiral 4,6 for checking and/or repair of a wall 2,3 of a pipe, the spiral has inherently a helical lead, where such is selected so that it provides protection against cracks and limits their length which is considered a critical length in that the spiral is there to prevent cracks from growing too large and

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prevents such from going past the wind of the arrestor thereby inherently being of a pitch to not exceed the critical length of a crack, where the pipe can have welds, and where there are fibers formed in grooves 6 which are filled by a material. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values.

Claims 37 and 38 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over LaHaye. The reference to LaHaye discloses the recited pipe comprising a spiral 12 for checking and/or repair of a wall 14 of a pipe, the spiral has inherently a helical lead, where such is selected so that it provides protection against cracks and limits their length which is considered a critical length in that the spiral is there to prevent cracks from growing too large and prevents such from going past the wind of the arrestor thereby inherently being of a pitch to not exceed the critical length of a crack, where the pipe can have welds. However, should it be considered that the pitch does not exceed a critical length of crack of a pipe such would be a mere choice of mechanical expedients where one skilled in the art would only require routine skill and experimentation to arrive at optimum values.

### ***Response to Arguments***

Applicant's arguments filed April 7, 2009 have been fully considered but they are not persuasive. With respect to the references to Smith, Loncaric, and Fawley, there is no specific reasoning provided as to why the references do not inherently show a helical

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lead and pitch which is less than the crack length or why such would not be an obvious choice of mechanical expedients if such were found not to be inherently within the teachings of the reference. With respect to spirals being formed on the inside and outside of the pipe, such is not claimed therefore such is not a pertinent argument when not based upon claim language, and with respect to the vitreous matter in the groove, such was non elected in the previous office action and by original presentation would still be non elected subject matter but such also depends from a claim directed to a non elected invention and still would therefore be non elected.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Somerville, Graham, Jr., Davidson, and Wang disclosing state of the art pipes and methods of repair or protection against cracks.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/  
Primary Examiner, Art Unit 3754

JFH